

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	: 10/792,061	Confirmation No.	4209
Applicant	: Scott D'Avanzo		
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Title	: GAMING MACHINE AND METHOD OF PLAY		
TC/A.U.	: 3711		
Examiner	: Eric Thomas		
Docket No.	: 087635.000017		
Customer No.	: 29747		

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Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

APPEAL BRIEF

Commissioner:

This Appeal Brief is being filed in response to the Notice of Appeal filed October 14, 2009 in the above-identified application.

The Commissioner is hereby authorized to charge \$15 for the Appeal Brief filing fee, the difference between the increased fee (\$270) and the previously paid fee (\$255), and any underpayment of fees, or credit any overpayments, that may be required by this paper to Deposit Account No. 502466.

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1. **Real Party in Interest:**

The real party in interest is Adrenalin Gaming, LLC, the assignee of record.

Related Appeals and Interferences:

None.

Status of Claims:

Claims 1-6 and 26-30 are pending. Claims 1, 4, 6, 26 and 29 have been rejected by the Examiner in an Office action dated April 14, 2009 from which the appellant initiates this appeal. Claims 2, 3, 5, 27, 28 and 30 were allowed.

Appellant is appealing the rejection of claims 1, 4, 6, 26 and 29.

Status of Amendments:

The amendment filed August 15, 2007 has been entered in the record.

Summary of Claimed Subject Matter:

Claim 1 recites a gaming machine comprising:

a mechanical component [paragraph [0031] identified by reference numeral 110 and shown in Figs. 1-3; paragraph [0036] identified by reference numeral 300 and shown in Figs. 3-6; paragraph [0037] identified by reference numeral 400 and shown in Figs. 7-9; and paragraph [0038] identified by reference numeral 510 and shown in Figs. 10-12], said mechanical component having a dynamic member [paragraph [0031] identified by reference numeral 120 and shown in Figs. 1-3; paragraph [0036] identified by reference numeral 305 and shown in Figs. 3-6; paragraph [0037] identified by reference numeral 410 and shown in Figs. 7-9; and paragraph [0038] identified by reference numeral 520 and shown in Figs. 10-12] operable to conceal a display device [paragraph [0033] identified by reference numeral 250 and shown in Fig. 3b; paragraph [0036] identified by reference numeral 320 and shown in Fig. 6; paragraph [0037] identified by reference numeral 430 and shown in Fig. 9; and paragraph [0038] identified by reference numeral 530 and shown in Fig. 12], said display device integrated with said mechanical component [paragraphs [0033] through [0038]; and

wherein upon activation of the mechanical component said dynamic member moves to reveal the display device, said display device operable to display a randomly generated gaming machine symbol related to a gaming machine award [paragraphs [0033] through [0038].

Claim 4 recites the machine of claim 3 wherein a player is afforded the opportunity to select one or more of the hands to reveal the symbol related to a gaming machine award [paragraph [0033]].

Claim 6 recites the machine of claim 2 wherein the one or more arms support a watch having a display [paragraph [0035] and Figs. 1-3].

Claim 26 recites a method of playing a gaming machine comprising:

activating a mechanical component, having a dynamic member, in response to a pre-established gaming machine outcome [paragraph [0034]; paragraphs [0036] through [0038] and Figs. 1-12]; and in response to said activation, causing said dynamic member to move to reveal a display device

substantially concealed therein, wherein said display device displays a randomly generated gaming machine symbol related to a gaming machine award, said display device integrated with said mechanical component [paragraph [0034]; paragraphs [0036] through [0038] and Figs. 1-12].

Claim 29 recites the method of claim 28 wherein a player is afforded the opportunity to select one or more of the hands to reveal the symbol related to a gaming machine award [paragraph [0033]].

Grounds of Rejection to be Reviewed on Appeal:

Whether claims 1, 4, 6, 26 and 29 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0180716 to Seelig et al.

Arguments:

Claims 1, 4, 6, 26 and 29 stand rejected under 35 U.S.C. 102(e) as being anticipated over U.S. Patent Application Publication No. 2004/0180716 to Seelig, et al.

In general, the embodiments of the present invention relate to a gaming machine having a mechanical component with a dynamic member. Integrated with the mechanical member is a display device. The configuration of the dynamic member and the display device allows the display device to remain concealed when in a dormant state (e.g., no winning outcome) and exposed in an active state (e.g., responsive to a winning outcome). Using the embodiment shown in Figs. 1-3, the mechanical component is the pair of arms 110 extending from the gaming machine 100. The hands 120 are the dynamic members which have the display device 250 concealed therein. When the hands 120 are closed, the display device 250, is not visible. Accordingly, when an award is to be provided to the player, the hand 120 opens to reveal the display and the displayed award. Other embodiments of the present invention are described in the specification and drawings, and referenced below.

Claims 1, 4 and 6 are directed to the gaming machine configuration while claims 26 and 29 are directed to a method of utilizing such a gaming machine. All claims stand rejected as anticipated in view of Seelig.

According to the examiner, Seelig discloses a gaming machine having a movable indicator 43 which may move to indicate a game outcome. The examiner then references pointer portion 106 which may be configured to cover and indicia and then reveal the indicia in the event the player has won a prize. However, the pointer portion 106 is identified as a magnifying glass with a lens (paragraph [0081]). A lens is transparent and thus does not conceal anything but rather enhances the size of the subject matter it is placed over. Thus, Seelig does not disclose, as recited in independent system claim 1, that *the dynamic member is operable to conceal a display device wherein said display device is integrated with said mechanical component*. Nor does Seelig disclose wherein upon activation of the mechanical component *said dynamic member moves to reveal the display device*. Similarly, Seelig does not disclose, as recited in independent method claim 26, causing *said dynamic member to move to reveal a display device substantially concealed therein*, wherein said display device displays a randomly generated gaming machine symbol related to a gaming machine

award, *said display device integrated with said mechanical component*. To the contrary, Seelig discloses a movable indicator 43 and magnifying glass 106 to identify an award. However, the magnifying glass does not (and cannot) conceal a display since the magnifying glass is transparent. Thus, in practice, the pointer 106 only identifies a specific display device or devices but does not conceal and then reveal a display device. That is, the display devices on prize display 42 of Seelig are always viewable (i.e., revealed) albeit blank when not activated. When activated the display devices display award amounts such that one such amount or display device may be identified by the pointer 106. Consequently, Seelig uses the dynamic member to identify one or more display devices of relevance from a larger group of display devices. However, the display devices are all visible to players at all times.

The examiner has indicated that the aforementioned features wherein the dynamic member conceals and reveals the display device responsive to a gaming machine award event are obvious design choices since mechanically concealing the display compared to displaying a concealed symbol electrically or graphically would bring similar results to the operation of the game. While the results may be the same (i.e., identification of an award), such a position is short-sighted in that many patented gaming machine features are utilized to identify an award. Integrating the display devices in the mechanical member such that they are concealed until activated when they are revealed is a structural advance over Seelig. First, the claimed structure allows more versatility for the gaming machine designer. As set forth in the present application the mechanical member may take many forms including arms [Figs. 1-3], flowers [Figs. 3-6], bottles [Figs. 7-9] and a jack-in-the-box [Figs. 10-12] while the dynamic members are hands [Figs. 1-3], petals [Figs. 3-6], caps [Figs. 7-9] and clown [Figs. 10-12], respectively. Any number of designs are conceivable within the embodiments of the present invention. Second, the concealment and revelation of the display device creates additional player interest and anticipation thereby increasing play of the gaming machines. Third, the use of such mechanical components having a display device integrated into a dynamic member allows a more interactive award feature also increasing play of the gaming machine. For example, the player may pick a hand to reveal a game award. Attracting players is the primary objective of gaming machines. The more players attracted to the gaming machines, the more revenue for the

casino. The Seelig design is limited and does not offer the benefits of the embodiments of the present invention.

Based on the foregoing arguments, Seelig cannot anticipate claims 1 or 26.

Claim 4 recites the machine of claim 3 wherein a player is afforded the opportunity to select one or more of the hands to reveal the symbol related to a gaming machine award. Nothing in Seelig discloses the player selecting a hand to reveal a symbol related to a gaming machine award. Seelig does disclose an ability for the player to select an indicator position (paragraph [0128]), but not an ability to select a hand which conceals a display device. The same arguments applicable to claim 4 apply the claim 29.

Based on the foregoing arguments, Seelig cannot anticipate claims 4 or 29. Moreover, claim 4 is dependent upon allowed claim 3 so claim 4 cannot be anticipated. Likewise, claim 29 is dependent upon allowed claim 28 so claim 29 cannot be anticipated.

Claim 6 recites the machine of claim 2 wherein the one or more arms support a watch having a display. Applicant incorporates by reference the arguments relative to claim 1 herein since claim 6 is dependent therefrom. Moreover, claim 6 is dependent upon allowed claim 2 so claim 6 cannot be anticipated.

Based on the arguments relative to claim 1, Seelig cannot anticipate claim 6. Consequently, claims 1, 4, 6, 26 and 29 are not anticipated in view of Seelig. Integrating a display device in a mechanical member such that a dynamic member is able to conceal and reveal said display device based on the gaming machine operation is a structural advancement over the prior art including Seelig.

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Claims Appendix:

1. A gaming machine comprising:
a mechanical component, said mechanical component having a dynamic member operable to conceal a display device, said display device integrated with said mechanical component; and
wherein upon activation of the mechanical component said dynamic member moves to reveal the display device, said display device operable to display a randomly generated gaming machine symbol related to a gaming machine award.
2. The machine of claim 1 wherein said mechanical component comprises one or more arms extending from said gaming machine.
3. The machine of claim 2 wherein said dynamic member comprises one or more hands joined to said arms.
4. The machine of claim 3 wherein a player is afforded the opportunity to select one or more of the hands to reveal the symbol related to a gaming machine award.
5. The machine of claim 4 wherein upon selection of one or more of the arms, the corresponding hand opens to reveal the display device.
6. The machine of claim 2 wherein the one or more arms support a watch having a display.
26. A method of playing a gaming machine comprising:
activating a mechanical component, having a dynamic member, in response to a pre-established gaming machine outcome; and
in response to said activation, causing said dynamic member to move to reveal a display device substantially concealed therein, wherein said display device displays a randomly generated gaming machine symbol related to a gaming machine award, said display device integrated with said mechanical component.
27. The method of claim 26 wherein said mechanical component comprises one or more arms extending from said gaming machine.

28. The method of claim 27 wherein said dynamic member comprises one or more hands each joined to the arms.

29. The method of claim 28 wherein a player is afforded the opportunity to select one or more of the hands to reveal the symbol related to a gaming machine award.

30. The method of claim 29 wherein upon selection of one or more of the hands, the corresponding hand opens to reveal the display device.

Evidence Appendix:

None.

Related Proceedings Appendix:

None.